



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CWP-7315-2001

Date of decision : 12.09.2024

Sukhversha Sachdeva (since deceased through her LRs)Petitioner

V/S

State of Haryana and others

....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Rakesh Nagpal, Advocate for the petitioner.

Mr. Ravi Dutt Sharma, D.A.G., Haryana.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of mandamus, directing the respondents to release the interest @ 18% per annum on the delayed payment of pensionary benefits.

2. Brief facts of the case, as have been pleaded in the present petition, are that the husband of the petitioner, who was working as Sub Divisional Engineer at Pundri Sub Station, died on 06.10.1986 while he was in service. After his death, the petitioner was granted retiral benefits. Thereafter, on 31.08.1987 pay scales were revised by the State Government with retrospective effect from 01.01.1986. However, the petitioner was not granted the pension as per revised pay scales, arrears of revised pay of her husband from 01.01.1986 to 06.10.1986 and arrears of gratuity and leave encashment as per revised pay scales. The petitioner approached the respondents by submitting various



representations dated 25.12.1989, 30.11.1992 and 20.02.2000 for claiming the abovesaid benefits but no action was taken on the same. Thereafter, on 10.07.2000, the pay of the husband of the petitioner was refixed w.e.f. 01.01.1986 as per revised pay scales and on 01.11.2000 the respondents paid the following amounts to the petitioner without any interest :-

Sr. No.	Particulars	Amount (in Rs.)
1.	Arrears of pension	2,01,933/-
2.	Difference of pay from 01.01.1986 to 31.10.1986	3,826/-
3.	Amount paid of LPC/NDC	26,560/-
4.	Arrears of leave encashment	3,656/-

Thereafter, the petitioner had also served legal notice dated 19.12.2000 to the respondents through her counsel for grant of interest on the abovesaid delayed payment but to no avail. Hence, the present petition.

3. During the pendency of the present writ petition, the petitioner has also unfortunately died on 27.03.2007 and vide order dated 28.05.2007, while allowing the application bearing CM No.8794 of 2007, her LRs were ordered to be brought on record. Thereafter, the case was referred to Lok Adalat for exploring the possibility of amicable settlement between the parties. However, no settlement was arrived at between the parties and the matter was referred back to this Court vide order dated 18.08.2011.

4. Written statement on behalf of the respondents has been filed, wherein it has been stated as under :-

“1. That Shri Dharambir Sachdeva had been working as



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Sub Divisional Engineer, in Provincial Sub Division, P.W.D. (B&R) Branch, Pundri and expired on 06.10.1986. The family pension case, with Death-cum-Retirement Gratuity was sent to Superintending Engineer, Karnal Circle, P.W.D. (B&R) Branch, Karnal, vide Executive Engineer, Provincial Division, P.W.D. (B&R) Branch, Kaithal, letter No.3332 dated 04.12.1986 and pension case was settled by the Accountant General, Haryana, Chandigarh, vide P.P.O. No.8686/F/Hr., Lateron, pay scale of all employees were revised by Haryana Govt. vide Haryana Govt. Finance Department Notification No.GSR-39/Constn./Art.309/87 dated 29.04.1987 on 31.05.1987. According to the instructions contained in the notification, option was to be exercised by the officials within 03 months of this notification and vide Note 2 of rule 6 for exercise of option which is reproduced as under :-

“Persons, who have dies on or after the 1st day of January, 1986 and could not exercise the option within the prescribed time limit shall be deemed to have opted for the revised scale on and from the 1st day of January, 1986 or such later date as is most beneficial to their dependents, if the revised scales are more favourable and in such cases, necessary action for payment of arrears shall be taken by the Head of Office.” The true copy of extract of Haryana Civil Services (Revised Pay) Rules, 1987 which came into force on the 1st day of January, 1986 is annexed as Annexure R-1.

At the time of fixation of pay in the revised scale, no option was exercised due to death of Shri Dharambir Sachdeva, on 06.10.1986 w.e.f. 01.01.1986 or from the date of next increment falling after 01.01.1986. The legal heir also failed to exercise the same as required under the provision made under Note 2 as above.”

2. That Smt. Sukhversha Sachdeva, legal heir of the deceased failed to submit application in Annexure-II and Form Pen-1B showing details of family members and her own authorization as legal heirs. Due to this lapse, fixation of pay in revised pay scale w.e.f. 01.01.1986 and revision of family pension etc. could not be processed at that time.

xx xx xx xx xx”

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5. Learned counsel for the petitioner submits that the husband of the petitioner had died in service on 06.10.1986 and arrears of pension, gratuity, leave encashment etc. were released to the petitioner on 01.11.2000 i.e. after a lapse of more than 13 years. He further submits that the petitioners were never asked for exercising the options with regard to the revised pay scale by the respondents despite the representations dated 25.12.1989 and 30.11.1992 made by them. He submits that since there is a considerable delay in releasing the arrears, therefore, the petitioner is entitled for interest on the same. In support of his contention, he has placed reliance upon the judgment passed by Hon'ble Supreme Court in ***D.D. Tewari(D) through LRs Vs. Uttar Haryana Bijli Vitran Nigam Ltd. and others : 2014 (4) S.C.T. 128*** and judgments passed by this Court in ***Harayan State Agriculture Marketing Board Vs. Jai Parkash Jaglan : 2023(4) SLR 941*** and ***CWP No.12441 of 2022 titled as 'Amarjit Singh Vs. State of Punjab and others' decided on 29.02.2024.***

6. Per contra, learned State counsel, while referring to the averments made in the written statement, opposed the present petition and submits that the entire amount of arrears has been paid to the petitioner well in time after receiving the requisite documents from her and the delay occurred in releasing the amount of arrears is not attributable on the part of respondents.

7. I have heard learned counsel for the parties and have gone through the relevant documents.

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8. Undisputed facts of the case are that the husband of the petitioner has unfortunately died on 06.10.1986 while in service and after his death, the retiral benefits were released to the petitioner. Thereafter, on 31.08.1987 pay scales were revised by the State Government with retrospective effect from 01.01.1986. However, the benefits of revised pay scale were released to the petitioner on 01.11.2000 i.e. after a lapse of more than 13 years.

9. The stand taken by the respondents is that at the time of fixation of pay in the revised scale w.e.f. 01.01.1986, no option was furnished by the petitioner or any other LRs of husband of the petitioner. However, as per Note 2 of Rule 6 of the Haryana Civil Services (Revised Pay) Rules, 1987, persons, who has died on or after 01.01.1986 and could not exercise the option within the prescribed time limit shall be deemed to have opted for the revised scale on and from 01.01.1986 or such later date as is most beneficial to their dependents, if the revised scales are more favourable and in such cases, necessary action for payment of arrears shall be taken by the Head of Office. As per the said Note, if no option was given by the petitioner or any other LRs of the husband of the petitioner, the respondents should have revised the pay scale of husband of the petitioner w.e.f. 01.01.1986 and should have given the benefits of the same to the petitioner well in time. Since there is a considerable delay in releasing the revised payment of arrears of pension, gratuity, leave encashment etc., therefore, the LRs of the petitioner cannot be denied the benefit of interest on the same.

10. A Full Bench of this Court in *A.S. Randhawa Vs. State of*



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Punjab and others : 1997(3) S.C.T. 468 has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, employee will be entitled for interest. The relevant paragraph of said judgment is as under:-

“Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement.”

11. Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of the said judgment is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”



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12. The Hon'ble Supreme Court of India in ***D.D. Tewari's case (supra)***, while granting interest on the delayed payment of retiral benefits has held as under:-

“4. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned single Judge after adverting to the relevant facts and the legal position has given a direction to the employer-respondent to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra. We have to award interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent.

5. It is needless to mention that the respondents have erroneously withheld payment of gratuity amount for which the appellants herein are entitled in law for payment of penal amount on the delayed payment of gratuity under the provisions of the Payment of Gratuity Act, 1972. Having regard to the facts and circumstances of the case, we do not propose to do that in the case in hand.”

13. The abovesaid judgment was also followed by this Court in ***Jai Parkash Jaglan's case (supra)***.

14. In view of the above factual position and settled principles of law, the present petition is allowed and the respondent-department is directed to pay interest @ 7% per annum to the LR's of the petitioner, on the delayed payment of pensionary benefits, w.e.f. 31.08.1987, when the revised pay scales were notified w.e.f. 01.01.1986, till the actual date of



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payment, within a period of 02 months from the date of receipt of
certified copy of this order.

12.09.2024

(NAMIT KUMAR)
JUDGE

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Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No